



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Geo. H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. O-1236

Re: Whether prizes given in shooting gallery are taxable under Article 7047f, R. C. S.

We are in receipt of your letter of August 4, 1939, wherein you submit to us the following facts situation:

The operator of a shooting gallery makes a regular charge to all customers for a certain number of shots. If a customer is able to place the bullet within certain spaces on the target, he is given a certain prize in the form of money.

You request our opinion as to whether or not the operator of such shooting gallery must pay the twenty per cent tax levied upon prizes by Article 7047f, Revised Civil Statutes, which reads, in part, as follows:

"(a) Every person, firm, or corporation conducting a theatre, place of amusement, or any business enterprise in connection with the operation of which a prize in the form of money or something of value is offered or given to one or more patrons of such theatre, place of amusement, or business enterprise, and not given to all patrons thereof paying the same charge for any certain service, commodity, or entertainment, shall make a verified monthly report on the twenty-fifth day of each month to the Comptroller of Public Accounts of the State of Texas, showing the amount of money so given in prizes, and the value of all prizes or awards so given in connection with such business during the next preceding month.

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"(b) There is hereby levied a tax equal to twenty per cent (20%) of the value of all such money, prizes, and awards given in connection with the operation of each and all of the foregoing business enterprises, and at the time of making the report to the Comptroller of Public Accounts, the owner or operator of any such business shall pay to the State Treasurer such tax upon the total amount of money, prizes, and awards so given during the next preceding month.

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Keeping the above facts in mind and reading the statutes carefully, we find that part of the statute satisfied which requires that the prize be given away in connection with a theatre, place of amusement, or business enterprise. The prize necessarily being given to a patron, we also find that part of the statute has been met. The only question left is whether or not a particular customer is exhibiting the skill necessary to place the bullet in a certain specified pattern is paying a charge additional to that paid by other patrons of the business enterprise. In our opinion he is not. We can see no benefit accruing to the operator of the shooting gallery through the act of a particular customer in placing the bullets within the specified pattern. We cannot see where he is delivering more to the operator of the shooting gallery than is the customer who does not shoot so well. Our answer to your question therefore follows, that the tax is due.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

GEL:LM



APPROVED AUG 11, 1939

*Gerard C. Mann*

ATTORNEY GENERAL OF TEXAS